IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1444 to 1470 of 2001
and

CIVIL APPLICATIONS NOS.3525 to 3551 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SPECIAL LAND ACQUISITION OFFICER

Versus

TRIBHOVANBHAI KUNVARJIBHAI VASAVA

Appearance:
MS RV ACHARYA, ld.AGP for appellants
MR AJ PATEL and MR JM PATEL for Respondents-claimants

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE D.H.WAGHELA

Date of decision: 21/04/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

This group of 27 First Appeals under Sec.54 of the Land Acquisition Act, 1894 read with Sec.96 of the CPC are directed against the common judgment and order dated 25th Aug.1999 passed by the Assistant Judge, Bharuch, Court Camp at Rajpipla in Land Acquisition Reference Cases Nos.1749 to 1753 of 1992 (5), 1803 to 1814 of 1992 (12), 1917 to 1923 of 1992 (7), 156 to 157 of 1993 (2) and 550 of 1990 (1) under Sec.18 of the Land Acquisition Act.

2. The lands of village Bhacharvada, Taluka Nandod, Dist. Bharuch were sought to be acquired for the purpose of Karjan Canal Project. For this purpose, the notifications under Sec.4 were issued on 23rd June 1988 in Land Acquisition Case No.30 of 1988, on 10th May 1990 in Land Acquisition Case No.285 of 1990, on 28th July 1989 in Land Acquisition Case No.69 of 1988, and on 9th Feb.1989 in Land Acquisition Case No.243 of 1988. The Land Acquisition Officer passed the awards as under:

(i) In land Acquisition Case No.30 of 1988, on 27th Oct.1988, the compensation was determined at the rate of 1.80 per sq.mtr., (ii) in Land Acquisition Case No.285 of 1990, on 31st Jan.1991, the compensation was determined at the rate of Rs.3/- sq.mtr., (iii) in Land Acquisition Case No.69 of 1988, on 23rd Sept.1991, the compensation was determined at the rate of Rs.2/- per sq.mtr., and (iv) in Land Acquisition Case No.243 of 1988, on 3rd March 1991, the compensation was determined at the rate of Rs.3/- per sq.mtr.

3. The claimants did not feel satisfied and took the matter for reference under Sec.18 of the Land Acquisition Act claiming compensation at the rate of Rs.20/- per sq.mtr. The Reference Court in all the cases has determined the rate of compensation as Rs.9.50 per sq.mtr. The Reference Court has placed reliance on the previous award at Exh.8 in Land Acquisition Reference Case No.277 of 1987 with regard to the village Rajpipla, Taluka Nandod, Dist.Bharuch wherein the notification under Sec.4 was issued on 17th March 1983 and the Reference Court granted compensation at the rate of Rs.8.10 per sq.mtr. The deposition of one Shri Shankarbhai Kuvarji made on behalf of the claimants at Exh.9 had also been relied upon. On behalf of the Department, no evidence whatsoever was led.

4. The said common order dated 25th Aug.1999 as has been passed by the Reference Court in the present case determining the rate of compensation as Rs.9.50 per

sq.mtr. has been made the subject matter of challenge in all these appeals. The order has been assailed by the learned AGP on the ground that the lands of village Bhacharvada were not comparable with that of Rajpipla. However, she has failed to substantiate this argument and we find that there is hardly a distance of 2 kms. between the two villages, i.e. Bhacharvada and Rajpipla. It has not been brought out as to what is the difference of quality of the two types of lands between the villages Bhacharvada and Rajpipla which were the subject matter of acquisition in the previous award at Exh.8. Not an iota of evidence has been led to show any difference or to hold that these lands are not comparable. Even the purpose for which the lands in the previous award at Exh.8 were acquired is the same as was the purpose in the present case of village Bhacharvada, i.e. Karjan Canal Project. A plea was raised that the references were time-barred, but the appellants have failed to explain anything in this regard and they have failed to show as to how the references were time barred. No details whatsoever have been pleaded before the Reference Court or before us and there is no material to hold that the references were time-barred.

5. Looking to the difference in the dates in the notifications under Sec.4 in two cases, i.e. in case of previous award Exh.8 as 17th March 1983 and the date of notification under Sec.4 in the present case in 88, 90 and 89, the Reference Court has made the earliest date, i.e. 23rd June 1988 to be the basis and there is a difference of about five years. On that basis, if 10% increase per annum was to be given, the rate would have been found to be around Rs.12 per sq.mtr. but the Reference Court has determined the rate at Rs.9.50 per sq.mtr. In this view of the matter, we do not find any merit in any of these appeals to interfere. The rate as has been determined by the Reference Court is found to be just, proper and adequate. All these 27 First Appeals are therefore dismissed with no order as to costs.

6. It is expected that the due amount of compensation shall be paid to the claimants within three months from the date the certified copy of this order is served upon the concerned authorities.

7. Whereas the main appeals have been decided by us today, there is no question of any stay in any of these 27 Civil Applications and all these 27 Civil Applications for stay are hereby rejected.

21st April 2001 (M.R. Calla, J.)

(D.H.Waghela, J.)

Sreeram.